

Message Text

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FM AMEMBASSY SAN JOSE

TO SECSTATE WASHDC PRIORITY 6487

CONFIDENTIAL SAN JOSE 1006

EXDIS

E.O. 11652: GDS

TAGS: PFOR, PGOV, CS

SUBJECT: EMBASSY LEGAL ADVISOR'S VIEWS ON EXTRADITION BILL

REF: SAN JOSE 1002

1. FRANCISCO CASTILLO SAID TODAY THAT THE DRAFT LAW DISCUSSED IN REFERENCED CABLE SHOULD NOT HAVE LEGAL EFFECT ON ANY FUTURE EXTRADITION ATTEMPTS FOR VESCO. HE HAD NOT PREVIOUSLY SEEN THE BILL, BUT EXPRESSED SURPRISE AND ANNOYANCE THAT THE GOVERNMENT WOULD SO BLATANTLY MOVE TO PROTECT VESCO.

CASTILLO NOTED THAT THE PRECEDENT SET BY THE FINAL DECISION OF THE COSTA RICAN APPEALS COURT IN DECIDING THE VESCO EXTRADITION CASE LAST SUMMER, WAS BASED ON THE EXTRADITION TREATY, NOT THE 1971 LAW, AND SUGGESTS, THEREFORE, THAT ANY NEW LAW MUST BE IGNORED IN A POSSIBLE FUTURE COURT TEST. CASTILLO POINTED OUT, HOWEVER, THAT HE IS NOW CONVINCED THAT HIGH LEVEL POLITICAL PRESSURE WAS BROUGHT AGAINST THE JUDGES WHO DECIDED AGAINST THE U.S. IN ITS CASE AGAINST VESCO. THUS, DESPITE THE PRECEDENT ESTABLISHED THAT THE TREATY PREVAILS, CASTILLO POINTS OUT THAT UNDER THIS BILL A POLITICALLY INSPIRED LOWER COURT JUDGE COULD REJECT AN EXTRADITION REQUEST AS ILLEGAL AND, BY DOING SO, PROVIDE THE DEFENSE WITH TIME TO ORGANIZE ITSELF WHILE AN APPEAL WAS BEING MOUNTED.

2. CASTILLO NOTED TWO ARTICLES OF THE BILL, IN ADDITION TO SOME OF THOSE OUTLINED IN REFTEL, THAT ARE ESPECIALLY POINTED. ARTICLE 4 READS, "WHEN A STATE SOLICITS EXTRADITION OF AN

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INDIVIDUAL WHO HAS BEEN OBJECT OF A PREVIOUS EXTRADITION

REQUEST, THE FOLLOWING NORMS WILL BE OBSERVED: CLAUSE (A) NEITHER DEEDS NOR CRIMES CONTEMPLATED IN PREVIOUS EXTRADITION ATTEMPTS NOR DEEDS RELATED OR CONNECTED TO THEM, CAN BE INVOKED BY THE SOLICITING STATE OR BY A THIRD STATE." ARTICLE 6, WHICH IS IN CASTILLO'S VIEW A CLEAR ATTEMPT TO KEEP EXTRADITION OUT OF THE COURTS, READS: "THE POWER OF REQUESTING, CONCEDING, OR DENYING OF EXTRADITION CORRESPONDS TO THE COURTS, BUT DECISIONS TAKEN WILL BE CONVEYED TO THE FOREIGN STATE BY THE EXECUTIVE BRANCH. HOWEVER, WHEN IN THE REQUESTING STATE THE DEFINITIVE DENIAL OF EXTRADITION IS THE RESPONSIBILITY OF THE EXECUTIVE BRANCH, THE SAME RESPONSIBILITY WILL FALL TO THE COSTA RICAN EXECUTIVE BRANCH."

3. THE EMBASSY IS RECEIVING SOME PRESS INQUIRIES. WE ARE RESPONDING THAT WE HAVE NOT HAD A CHANCE TO STUDY THE BILL AND, MOREOVER, AS THERE IS NO REQUEST FOR VESCO'S EXTRADITION EXISTING WE DO NOT KNOW HOW THE NEW BILL WOULD AFFECT ANY FUTURE CASE.

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